STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

ILLINOIS POWER COMPANY	)	
	)	04-0476
Proposed General Increase	)	
in Natural Gas Rates	)	

INITIAL BRIEF OF BUSINESS ENERGY ALLIANCE AND RESOURCES, L.L.C.

Stephen J. Moore
Rowland & Moore LLP
200 W. Superior Street
Suite 400
Chicago, Illinois 60610
(312) 803-1000
steve@telecomreg.com

February 10, 2005

TABLE OF CONTENTS

INITIAL BRIEF OF BUSINESS ENERGY ALLIANCE AND RESOURCES, L.L.C.

I. Introduction

Business Energy Alliance and Resources, L.L.C. ("BEAR") is an association of natural gas and electric customers located in Illinois that use gas to dry grain. This process generally takes place in the months of September and October, so grain dryers impose little if any transmission and distribution costs on Illinois Power Company ("IP"), which designs its system to meet its winter system peak. It would not matter whether every grain dryer doubled its usage or stopped operating. In either event, IP would still design the same transmission and distribution system to meet its winter peak, which would be unaffected by more or less grain dryer use. For that reason, IP has had a tariff available to grain dryers, SC 67, that provides them with a discount from the rates that would have been available to them based on their usage.

IP proposes to replace SC 67 and SC 68 (a similar rate available to asphalt producers) with a new SC 66, Seasonal Gas Service, which is described as a "seasonal use" rate designed for customers that do not use gas during IP's peak days. BEAR has no objection to the replacement of SC 67 with SC 66. Whereas SC 67 and SC 68 base eligibility on **how** a customer uses gas, SC 66 targets the rate to **when** a customer uses gas. BEAR supports this change from an end use rate to a time of usage based rate. Furthermore, while BEAR is satisfied with the seasonal rate design used by IP's sister utilities, Ameren CIPS and Ameren CILCO, which base eligibility on total used during winter months, BEAR has no objection to the conceptual underpinning of IP's SC 66, which is designed for customers who do not use gas during very cold days. This intent is

reflected in the demand provisions, which impose significant additional costs if the customer uses gas when the average day-ahead temperature projection is below 25 degrees.[1] Grain dryers use gas almost exclusively from September and October and can structure their operations so they do not dry grain on days the temperature is predicted to fall below that level.

As discussed below, however, BEAR objects to several aspects of IP's proposed rate design. First, IP's existing cost allocation cannot be relied on as a measure of class revenue deficiencies. The major problem is that it has misallocated demand related costs, as it has not allocated costs to all classes in a consistent manner. As a result of a major modification to the methodology for allocating demand costs applied to existing SC 67 and SC 68 customers, IP has overstated SC 66 demand costs. Second, IP has mixed and matched embedded and current costs in calculating its facilities costs, again treating SC 66 differently. Third, IP has created distortions and inequities when it set facilities charges for SC 66 well above those proposed for customers with comparable usage taking service under one of IP's other firm service rates. This Commission should therefore order IP to recalculate its costs in the manner proposed by BEAR below.

II. IP's Proposed Revenue Allocation Violates Principles of Rate Continuity.

IP is proposing inordinate increases to grain dryers that violate the principle of rate continuity. A large percentage of SC 67 customers will have rate increases that are multiples of the system average increase. As shown in Exhibit LS-2, the originally proposed increases to grain dryers' monthly rates range from 50% to 218%. The

[1] The originally proposed rate set this threshold at 32 degrees, which would be well above the Company's peak use days, but the Company has agreed to reduce the threshold to 25 degrees.

revisions to the proposed rates made in the Company's Rebuttal and Surrebuttal testimonies will actually make the situation worse with regard to monthly bills, although the average increase for delivery service will remain at about 100%. Part of the problem is the inordinate proposed facilities charges. For example, facilities charges will rise from the current $250 per month for SC 67 to $350, $850 or $1,800 per month for SC 66, depending on whether a grain dryer is small, medium or large. As noted in Section V of this brief, smaller grain dryers will be required to pay facilities charges that are greater than the largest SC 64 customers. Moreover, IP proposes to increase grain dryers' delivery charges from the current $0.0424 per therm for SC 67 to $0.07326 for SC 66.

One fundamental ratemaking principle is that of rate continuity. IP's rate proposals violate this principle. IP misstates the rate continuity issue by referring only to increases in total bills, including gas costs. This case is one regarding delivery service, not delivery service plus gas service. Moreover, some grain dryers have chosen alternative suppliers of gas, so even the Company's claims regarding the "break" that SC 66 customers will get on the cost of gas are not relevant. While IP's rate increase request has been reduced as a result of settlement of most of the revenue requirement issues, there will be a rate increase. Under the current rate design proposal of the company, that rate increase will fall very unequally on grain dryers. BEAR therefore recommends that the Commission direct that, regardless of its acceptance or rejection of the remaining proposals in this brief, the rate increase applied to grain dryers should be no more than fifty percent larger than the system rate increase.

III. IP's Cost of Service Study Does Not Allocate Demand Charges Appropriately.

There has been a difference of opinion between the Company, Staff, and CUB regarding the way in which average loads and peak loads should be utilized in the allocation of distribution capacity costs. However, to date all of the allocations have been flawed by how IP has defined "average" use. This results in overallocating capacity costs to grain dryers. IP acknowledges that grain dryers will not impose any costs on the system during system peak periods. In fact, Mr. Jones argues that grain drying and asphalt customers should be in the same class because they use gas when the system is not at its peak, and they "…provide additional use of the Company's existing delivery system at little incremental cost." (IP Ex. 7.19, P.18)

IP's SC 66 rates, however, do not reflect IP's professed acknowledgement of the relative costs and benefits of providing service to grain dryers. A properly conducted cost of service study would show that the cost of service to grain dryers is considerably smaller than the cost of service of customers with similar size, but with a usage pattern that includes the use of gas during IP's system peak. IP's cost of service study does not reflect the benefit provided by grain dryers because it calculates the demand costs of SC 67 and SC 68 differently from the calculation it uses for all other customers.

IP claims it is not assigning SC 66 customers any peak costs. Yet a review of the company's cost of service study shows that it is attempting to recover peak costs from grain dryers through the back door by increasing the "average" use component of the Average and Peak ("A&P") cost allocation method. Although IP adopted the Staff's proposal that it allocate demand based on the A&P method, it changed the method for SC 67 and SC 68. For all other customer classes, IP calculated average use by dividing total

annual use by 365. Yet, IP calculated average use for SC 67 by dividing total annual use by 61. Similarly, IP calculated the average use for SC 68 by dividing total annual use by a figure less than 365. Mr. Jones testified that IP modified its cost of service study in this manner because 90 percent of grain dryer use occurs within 61 days of the year. He stated that treating SC 66 customers the same as other customers and dividing total annual use by 365 "would significantly reduce the storage, transmission, and distribution costs allocated to SC 66." IP Ex. 7.30, at 11. While that may be true, SC 66 customers **should** receive a lower allocation of storage, transmission and distribution costs because they have zero use on peak days. If grain dryers impose negligible demand costs on IP, then their rates should reflect that fact. By changing its method of calculating average use for current SC 67 and 68 customers so that they would continue to pay for storage, transmission and distribution costs, IP engaged in end result rate making.

Ms. Althoff criticized such ratemaking, stating "unfairly choosing one allocation over another to produce a desired result shifts cost responsibility from one customer class to another and creates subsidies." IP Ex. 5.10 at 5. IP did not follow that advice. Instead, IP adjusted its cost of service study to obtain the result it wanted – forcing grain dryers to pay demand charges based on storage, transmission and distribution costs that they do not impose on IP. The company thus created the exact type of subsidy its own witness warned it to avoid. If a consistently applied A&P method results in grain dryers paying smaller demand charges, it would be because they should pay lower demand charges. IP's manipulation of its cost of service study was an improper attempt to avoid the inevitable and fair result of a consistently applied analysis.

IP's defense for its use of a separate cost of service calculation for SC 66 is that it does not build its transmission and distribution system to meet its system peak. According to Ms. Althoff, IP sometimes builds a distribution system in an area to meet a peak at a time other than the system peak. IP Ex. 5.6 at 8. Ms. Althoff's argument ignores the fundamental fact that IP does not need to build additional transmission or distribution plant to serve grain dryers, because the system that is built to meet the winter peak has enough room on it to serve the grain dryers fall peaking load. Ms. Altoff admits that fact, stating: "virtually all of the transmission system serves more than one customer." (IP Ex. 5.10 at 5.) If the system is serving multiple customers, it must be sized to meet the coincident peak of the multiple customers, which will almost always be similar to the system peak. If there are any mains that are sized to meet the fall peak of grain dryers, this will be an exception to the rule.

The exception to the above would be where some plant, close to the customer, was sized to meet the customer's peak. Ms. Smith noted that when IP adds local plant in order to serve a large grain dryer, "it should have computed that the customer's load will produce enough revenue to recover these investment costs, and may have required a contractual commitment from the customer before making large facilities investments." IP's tariffs confirm Ms. Smith's testimony. IP's Rules, Regulations, and Conditions to Gas Service specify that IP need not provide free gas distribution main to a customer if the cost of the extension is less than 1 ½ times the annual revenue from customers who would take service from the extension unless the customer provides a deposit equal to the deficiency. (Section 4.2 Gas Distribution Mains) Additionally, IP's tariffs provide:

> Section 4.1 Service Extensions "…When unusual expenditures will be incurred in providing service to Applicant or Customer, Applicant or

> Customer shall pay Utility a non-refundable contribution for the estimated excess cost required to provide service. Such charges shall cover only the costs of facilities required to serve Applicant or Customer.

Thus if the Company had incurred extraordinary costs associated with a customer's load, the customer would have paid directly for such costs. (Response to BEAR 1.11)

IP's responses to additional BEAR discovery show that this is exactly what has happened. When asked to identify every instance where it built transmission or distribution plant to meet the noncoincident peak of customers, IP was able to identify only two locations where it made such an investment. Moreover, in both cases, the customer made financial contributions to the expansion of facilities to serve them. BEAR Ex. 1, at 5. IP's modification of the A&P method thus results in a double recovery of such investment – first from the affected customer and second from all SC 66 customers.

The result of IP's manipulation of its cost of service study is that its proposed rates require SC 66 customers to pay far in excess of their fair share of demand costs. In fact, IP has designed the rate in such a manner that large numbers of grain dryers that are eligible for SC 66 would be better off with one of IP's other rates even though, unlike other customers with similar annual usage, they have zero demand on peak.

Since distribution capacity costs are slightly more than half of the total distribution costs requested by the Company[2], the misallocation of those costs has a significant impact on class cost of service. The Company's cost of service study should not be considered a reliable guide to cost allocation.

[2] As can be seen in the "Unbundled" tab in the allocated cost of service study, which summarizes capacity and customer costs.

BEAR recommends that if the Commission chooses to allocate the revenue increase on the basis of a cost of service study, IP should be required to modify its allocation of costs to SC 66 (using the same definition of average that is used for other customers), using the general method for allocation of capacity costs approved by the Commission. This will better reflect the true cost of service and will eliminate the cross subsidies grain dryers would be forced to pay to other customers if the current cost of service study were utilized as a basis for allocation. BEAR believes that this simple change in IP's cost of service model would recognize the benefit grain dryers provide to the system by not using gas on the coldest days. It will also, when combined with a proper calculation of customer charges discussed below, bring the cost of service based rate for SC 66 much closer to conformance with the rate continuity guidelines which we have recommended.

IV. IP's Cost of Service Study Mixes Embedded Costs With Current Costs In the Calculation of the Customer Charge.

Although IP's cost of service study was based on embedded costs, IP also used current costs in determining customer charges. Specifically, it used current costs for service installations. This mixture of embedded and current costs skewed the results of IP's cost of service study and made it appear that it costs more to serve most general service customers, including grain dryers, than a consistent cost study would show. The purpose of allocating existing plant investment is to reflect the relative amount of dollars that have been invested to serve each class. Such level of investment reflects historic costs, not current costs. Current costs are only a reasonable proxy for historic costs when the relationship between the costs remains the same. As Ms. Smith testified, "If most

existing plant costs resulted from a time when cost relationships between materials were different from the present, using current costs as a basis for allocation would not be correct." (BEAR Ex. 2, at 7) As an example, she stated: "If steel pipe costs much more relative to plastic pipe than it did when most pipe was installed, and the Company is using this current cost ratio to allocate, the revised service plant allocation is not accurate." Id. That is exactly what has happened here.

Ms. Althoff defended IP's mixture of embedded and current costs, stating: "Ameren IP believes that the use of current cost provides a better basis for allocating costs to customer classes as it eliminates the concern of varying inflation impacts on different items of plant". IP Ex. 5.10 at 11. IP eliminates the "concern" by charging customers for old steel pipe as if its cost bore the same relationship to plastic pipe as new pipe. The fact is, the customers are using primarily old pipe, and the Company's rate base reflects primarily old pipe. BEAR recommends that IP rerun its cost of service methodology using all historic costs to allocate customer costs rather than a mixture of historic and current costs.

V. SC 66 Customers Should Pay Facilities Charges Comparable to Those Paid by Customers Taking Service Under Comparable Rates.

The level of customer charges proposed for SC 66 (for small, medium, and large customers) is a problem. First, because customer charges are based on the highest cost for each subgroup, the smaller customers within the group will pay more than cost. Second, high monthly facilities charges are a problem for customers who have no revenue during many months. Third, these charges compare very unfavorably with alternative general service rates.

All SC 66 customers will have the option of obtaining service from the IP rate appropriate for their usage – which include the regular firm rate schedules, SC 63 Small Volume Firm Gas Service, SC 64 Intermediate Volume Gas Service and SC 65 Large Volume Firm Gas Service. The cost of the facilities serving a grain dryer will be the same whether it takes service under SC 66 or under the regular firm gas rate appropriate for its demand and usage. Switching rates will not require the installation of any new facilities. Yet IP has proposed that Rate 66 customers pay facilities charges well beyond those proposed for IP's other firm rate classes. The chart below shows the proposed monthly facilities charges:

SC 63 Small Volume Standard	$25.00
SC 63 Small Volume Non-Standard	$90.00
SC 64 Intermediate Volume	$235.00
SC 65 Large Volume	$735.00
SC 66 Small	$350
SC 66 Medium	$850
SC 66 Large	$1,800

Source: (IP Exh. 7.23).

The three separate customer charges applicable to SC 66 customers are also the result of a costing approach that is uniquely applied to, and harmful to, SC 66. The Company developed these different charges by weighting small SC 66 customers by the largest meter and meter installation cost used for this group of customers, and taking the same approach for medium and large size customers.

IP's facilities charge development for SC 66 customers creates numerous distortions and inequities. For example, BEAR Cross Jones Exhibit 1 demonstrates that there are many SC 64 customers whose meter cost is greater than the average cost of SC 66 meters. There are two SC 64 customers with a meter cost of $4,094, thirteen with a meter cost of $2,767, and 118 customers with a meter cost of $ 2,500. Of the 82 Rate 67 grain dryer customers shown on that exhibit, only seven match or exceed a meter cost of $4,094, twelve match or exceed a meter cost of $2,767 and two have a meter cost of $2,500. The remaining 61 grain dryers have meter costs below those figures. In other words, the cost of the meter serving most SC 66 customers is less than the cost of meters of 133 customers who are on SC 64, with a proposed $235 per month facilities charge. Yet, as can be seen from the chart above, the smallest grain dryer will pay $350 per month, which is more than the $235 paid by all SC 64 customers, and the medium size grain dryers, most of whom would be eligible to be served on SC 64 will pay $850 per month.

The facilities charge is a monthly charge that will be paid even during non-grain drying months. The fact that grain dryers use gas for only two months during the year will not prevent IP from recovering the costs of its facilities used to serve that grain dryer. IP will receive twelve monthly payments for facilities charges from grain dryers, just as it receives twelve monthly payments from its other customers. There is no reason to assign grain dryers different facilities charges than those assigned to customers with similar usage taking service under one of IP's other rates. BEAR therefore recommends that the SC 66 customer charge be set the same as the regular firm rate that each customer would be eligible to take service under.

VI. The Adoption of BEAR's Rate Proposals Should Protect the Company and Other Customers From Grain Dryers Leaving the IP System.

Properly designed rates, along with BEAR's proposed limitation on the total percentage increase to grain dryers, will prevent grain dryers from having to leave the IP system, or in some cases going out of business because grain elevators in other utility service territories can offset transportation costs with lower grain drying costs. BEAR Ex. 2 at 2. If grain dryers leave the system, IP's customers will be the ultimate losers, because the company will need to recover more of its costs from the remaining customers. The possibility of losing smaller grain dryers is particularly likely given the large increase in their monthly charges. IP Exhibit 7.28 illustrates that SC 66 costs more for the very low usage customers than propane, and the savings from SC66 for other customers are quite small. For these customers, a decrease in the cost of propane, or an increase in the cost of gas, would cause SC66 to be more expensive than propane. The possibility of losing grain dryers to propane was exactly the reason IP first introduced SC 67. Docket 93-0180, Order (April 6, 1994), at 207-208. Absent significant changes in the proposed rates, IP's SC 66 will increase that possibility.

VII. Conclusion

For the reasons stated above, the Commission should direct IP to make the following changes to its cost of service study and then redesign its rates to reflect the recalculated study:

1. Reallocate capacity costs by calculating the "average" component of the Average and Peak method in a consistent manner for all classes (divide total annual use by 365).
2. Allocate service costs using all historic costs rather than a mixture of historic and current costs.
3. If the result of the revised allocation after 1 and 2 above would still be an increase for SC 66 customers greater than 150 percent of the average rate increase, cap the SC 66 rate increase at 150 percent of the average rate increase.
4. Set the SC 66 customer charges the same as other comparable IP rates (SC 63, SC 64 or SC 65) available to SC 66 customers.

Dated: February 10, 2005

Respectfully submitted,
Business Energy Alliance and Resources, L.L.C.
*Stephen J. Moore*_____
By: Stephen J. Moore

Stephen J. Moore
Rowland & Moore LLP
200 W. Superior Street
Suite 400
Chicago, Illinois 60610
(312) 803-1000
steve@telecomreg.com

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

ILLINOIS POWER COMPANY	)	
	)	04-0476
Proposed General Increase	)	
in Natural Gas Rates	)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of Business Energy Alliance and Resources, L.L.C.'s Initial Brief has been served upon the parties listed on the attached service list on the 10th day of February, 2005, by electronic mail.

/s/ *Stephen J. Moore*
Stephen J. Moore
Rowland & Moore LLP
200 West Superior Street
Suite 400
Chicago, Illinois 60610
(312) 803-1000
steve@telecomreg.com

ATTORNEY FOR Business Energy Alliance
and Resources, L.L.C.

Energy Service List
ICC Docket No. 04-0476 ***(JVQ/CLF)***

Thomas M Byrne
Ameren Services Company
1901 Chouteau Ave.
P.O. Box 66149 (MC1310)
St. Louis MO 63166-6149

Randolph R Clarke
Assistant Attorney General
Attorney General's Office
100 W. Randolph, 11th Fl.
Chicago IL 60601

Edward C Fitzhenry
Ameren Services Company
PO Box 66149 (M/C 1310)
1901 Chouteau Ave.
St. Louis MO 63166-6149

Carmen Fosco
Illinois Commerce Commission
160 N. LaSalle St., Ste. C-800
Chicago IL 60601-3104

Janis Freetly
Case Manager
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield IL 62701

Mark G Kaminski
Assistant Attorney General
100 W. Randolph St., 11th Fl.
Chicago IL 60601

Joseph L Lakshmanan
Sr. Corporate Counsel
Illinois Power Company
500 S. 27th St.
Decatur IL 62521-2200

Owen E MacBride
Atty. for Illinois Power Company
Schiff Hardin & Waite
6600 Sears Tower
Chicago IL 60606

Stephen J Moore
Atty. for BEAR
Rowland & Moore LLP
200 W. Superior St., Ste. 400
Chicago IL 60610

Samantha C Norris
Atty. for Illinois Power Company
Schiff Hardin & Waite
6600 Sears Tower
Chicago IL 60606

Eric Robertson
Atty. for Caterpillar Inc.
Lueders, Robertson, Konzen
1939 Delmar Ave.
P.O. Box 735
Granite City IL 62040

Randall Robertson
Atty. for Caterpillar Inc.
Lueders, Robertson, Konzen
1939 Delmar Ave.
P.O. Box 735
Granite City IL 62040

Energy Service List
ICC Docket No. 04-0476 ***(JVQ/CLF)***

Ryan Robertson
Atty. for Caterpillar Inc.
Lueders Robertson & Konzen
PO Box 735
1939 Delmar Ave.
Granite City IL 62040

Janis Von Qualen
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield IL 62701

Dianna Hathhorn
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield IL 62701

Charles Iannello
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield IL 62701

Burma Jones
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield IL 62701

Peter Lazare
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield IL 62701

Eric Lounsberry
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield IL 62701

Michael McNally
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield IL 62701

Bonnie Pearce
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield IL 62701

David Reardon
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield IL 62701

Scott Struck
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield IL 62701

Michael L. Wallace
Administrative Law Judge
Illinois Commerce Commision
527 E. Capitol Ave.
Springfield IL 62701

Energy Service List
ICC Docket No. 04-0476 ***(JVQ/CLF)***

Elizabeth A. Rolando
Chief Clerk
Illinois Commerce Commission
527 East Capitol Ave.
Springfield, IL 62701

Chris Thomas
Sr. Policy Analyst
Citizens Utility Board
208 S. LaSalle, Ste. 1760
Chicago, IL 60604